

BEFORE THE INDIAN CLAIMS COMMISSION

THE TUSCARORA INDIAN NATION)	
)	
Plaintiff,)	
)	
v.)	Docket No. 321
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Decided: May 14, 1970

FINDINGS OF FACT

1. The plaintiff, the Tuscarora Indian Nation, is an identifiable tribe of American Indians residing in the State of New York and having a tribal organization recognized by the Secretary of the Interior as authorized to represent the tribe and all its members in matters relating to claims under the Indian Claims Commission Act (60 Stat. 1049).

2. The lands which are the subject of the claim filed herein are located in Bertie County, North Carolina, on the south side of the Morratock (now Roanoke) River and are bounded and described as follows:

Beginning at the Mouth of Quitsnoy Swamp, running up the said Swamp Four Hundred and Thirty Poles, to a Scrubby Oak, near the Head of the said Swamp, by a Great Spring; then North Ten Degrees East, Eight Hundred and Fifty Poles, to a Persimmon Tree on the Raquis Swamp; then along the Swamp and Pocoson main Course, North Fifty Seven Degrees West, Two Thousand Six Hundred and Forty Poles to a Hickory on the east Side of the Falling Run, or Deep Creek, and down the various Courses of the said Run to Morattock River; then down the River to the first Station; . . .

By subsequent survey the described tract was found to contain 41,113 acres.

3. The Tuscarora Indians, a group of Iroquoian Indians, originally were situated in the piedmont and coastal plains of North Carolina along the Neuse, Tar and Roanoke rivers. During and at the conclusion of the so-called Tuscarora Wars (1711-1713), a substantial portion of the Tuscaroras moved to Pennsylvania and New York where they resided with various portions of the Five Nations and subsequently in about 1722 became the sixth nation of that confederacy.

4. Around 1711 armed hostilities broke out between the colonials in North Carolina and the Tuscaroras and other Indians which resulted in a serious defeat for the Tuscaroras.

Several of the Tuscarora villages in the Neuse-Pamlico River area of North Carolina refused to join with the Tuscarora hostiles under Chief Hancock in the war against the colonists. The villages remaining loyal to the white colonists were under the leadership of Tom Blount, who was later proclaimed, by the colonial government, as King of the friendly Tuscaroras. At this time, 1712, Blount and the village leaders of the several friendly Tuscarora towns entered into a treaty of aid and assistance with the Colony of North Carolina to aid in defense of the colony and the white settlers against the several marauding bands of Indians in North Carolina.

When the war ended in 1713, the friendly Tuscarora Indians under the leadership of "King" Blount who had assisted the colonists remained in the Colony of North Carolina and were assigned lands on the Neuse

and Pamlico Rivers, in consideration of the aid and assistance to the Colony of North Carolina in ending the Tuscarora War and the continued aid thereafter in keeping the hostile tribes in North Carolina in check.

5. The lands allotted to Blount and the Indians under his care in the Neuse-Pamlico area were endangered by the South Carolina tribes to the degree that Blount requested the Colonial Government of North Carolina that his lands on the Neuse-Pamlico River be exchanged for lands in the northerly area of the state. The request was approved by granting the Tuscarora Indians a tract of 41,113 acres on the north side of the Roanoke River (as described in Finding of Fact No. 2, supra).

6. In 1741 the Governor and Council of North Carolina approved an order for the survey of the boundaries of the 1717 grant. By Act of the General Assembly of the North Carolina Province in 1748 the grant to the Tuscaroras was confirmed, and the lands were defined by metes and bounds. It was provided, however, that any person holding a grant formerly obtained under the late Lords Proprietors ^{1/} should become entitled to the same upon the Indians deserting or leaving the lands. The Act also prohibited the purchase or occupancy of Indian lands or the ranging of livestock thereon.

^{1/} Before North Carolina became a royal colony in 1729, Carolina lands belonged to eight royal proprietors, known as Lords Proprietors, grantees of Charles II. During the early part of the 18th century, Carolina settlers ordinarily obtained title to lands by grants from the proprietors' representatives and did not negotiate with the Indians for the lands on which they settled.

7. The Tuscaroras resided on the granted lands until 1766 when, at their request, arrangements were made for a substantial number of them to move from North Carolina to New York. Money was advanced to cover the expenses of the removal on the credit of the lands until the General Assembly would approve a sale to raise the money which had been advanced. One hundred and fifty five Tuscaroras left and one hundred and four remained and continued to occupy about one-half of the original grant.

8. As a necessary step to reimburse the money advanced to transport the 155 Indians, which then amounted to £ 2,000 Proclamation Money, the General Assembly passed an Act confirming a lease by the Tuscaroras to Mr. Jones and two other gentlemen, William Williams and Thomas Pugh. The lease, dated July 12, 1766, was for a term of 150 years and purportedly covered a described tract of about 8000 acres, which on subsequent survey actually embraced 21,762 acres, and the total consideration was 1500 pounds Proclamation Money.

9. The migration of Tuscaroras from North Carolina to New York continued until by 1777 a majority of the North Carolina Tuscaroras had joined members of their tribe in New York. Between July 12, 1766, and December 1, 1777, other leases were made by Tuscaroras to various individuals for substantial portions of the remaining Tuscarora lands in North Carolina, although such leases were forbidden and had been declared to be null and void by the Colonial General Assembly Act of 1748.

10. In 1778, the North Carolina Assembly enacted a statute which prohibited purchase, lease, or disposition of Tuscarora lands in Bertie County except by permission of the General Assembly; confirmed the 150-year lease to Jones, Williams, and Pugh on Tuscarora lands, and subleases thereunder; and confirmed other 99-year leases of the land, subject to modification or other appropriate action for fraud or unfairness to the Indians under procedures described in the Act. Five Commissioners, at least four of whom appear to have been the Indians' lessees, were appointed under the statute to protect the lands from other white intruders and to assist in collecting rents and demands owing the Indians.

According to data from Bertie County records at Windsor, North Carolina, and from other sources here in evidence, at least 8 leases granted between 1785 and 1789 for 99-year terms, covering approximately 15,940-1/2 acres, were validated by the 1778 Act.

The last section of the 1778 Act provided that at the expiration of the leases on the Bertie County lands, the lands would revert to the State if the Tuscarora Nation were to become extinct. The 1778 Act provided also that the Tuscarora's Bertie County lands would become the property of the State whenever the said Nation became extinct or the Indians entirely abandoned or removed themselves from the lands and every part thereof.

11. In 1790 Congress adopted the Trade and Intercourse Act. There have been different versions of that Act which is still in

